NVF:RLT:KML
04/19/2023

RESOLUTION NO. RES2023-134

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING REVISIONS TO COUNCIL POLICY NO. 1-23 RELATING TO THE ENERGY RISK MANAGEMENT POLICY

WHEREAS, the City Council of the City of San José ("City") initially adopted City Council Policy 1-23, "Energy Risk Management Policy" by City Council action on May 1, 2018 ("Policy") pursuant to Resolution No. 78574; and

WHEREAS, the City Council desires to amend the Policy to provide the Community Energy Department the authority to efficiently procure and contract for power products, and to ensure timely collection of revenues; and

WHEREAS, the City Council will concurrently consider a proposed ordinance to amend Section 2.04.4620 of Chapter 2.04 of Title 2, and Title 26 of the San José Municipal Code;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

A. The revisions to City Council Policy No. 1-23 entitled "Energy Risk Management Policy," attached as Exhibit "A" are approved and shall be effective the same day as the ordinance amending the San José Municipal Code.

B. This Resolution supersedes Resolution No. 78574.

ADOPTED this 2nd day of May, 2023, by the following vote:

AYES:	BATRA, CANDELAS, COHEN, DOAN, FOLEY, JIMENEZ, DAVIS, ORTIZ, TORRES, KAMEI, MAHAN.
NOES:	NONE.
ABSENT:	NONE.
DISQUALIFIED:	NONE.

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

EXHIBIT A

City of San José, California

COUNCIL POLICY

TITLE ENERGY RISK MANAGEMENT POLICY	**PAGE** 1 of 18	**POLICY NUMBER** 1-23
EFFECTIVE DATE May 1, 2018	**REVISED DATE** May 2, 2023 (Effective June 16, 2023)	
APPROVED BY COUNCIL ACTION 5/1/2018, Item 7.1, Res. No. 78574		

1.0 PHILOSOPHY, OBJECTIVES, AND SCOPE

The Energy Risk Management Policy (Policy) outlines the philosophies and objectives related to energy risk management for the San José Clean Energy (SJCE) program. The Community Energy Department (CED) is the administrator of the SJCE program for the City of San José (City). A Risk Oversight Committee (ROC) reviews and recommends approval of the Energy Risk Management Regulations (ERMR) which further details the roles, strategies, controls, and authorities under this Policy to form a comprehensive energy risk management program. The ERMR shall be read in conjunction with this Policy. Chapter 2.04 of Title 2 and Title 26 of the San José Municipal Code, the Policy, and the ERMR shall be interpreted in descending order of precedence to the extent there is a conflict.

1.1 Risk Philosophy

The overall goal of this Policy is to:

a. Provide as much energy supply cost certainty for SJCE's customers as possible while maintaining a least cost supply portfolio;
b. Meet the regulatory requirements and local clean energy goals, such as renewable energy content, low carbon content, and adequate capacity; and
c. Establish risk controls, contract authority limits, and procedures for the purchase and sale of power products, consistent with prudent energy risk management practices.

CED is in the business of generation, transmission, and procurement of electricity to meet the needs of the SJCE program's customers. CED should develop a supply portfolio to meet the load requirements of SJCE's customers cost effectively within acceptable risks. However, unlike a private-sector entity,

CED's primary purpose in the power supply business is to serve SJCE's customers. Therefore, CED is precluded by this Policy from engaging in speculative buying and selling.

The City Council recognizes that certain risks are incidental to normal power supply operations and hedging activities. CED aims to avoid unnecessary risk and limit, to the extent practicable, risks associated with power procurement activities. This Policy further defines CED's contract and procurement authority for the purchase and sale of power products.

1.2 Business Activities

CED's main business in the operation of SJCE is the purchase and sale of power products to meet customer load and related requirements. The supply portfolio may consist of fixed and variable priced agreements for power products of different durations (short-term, medium-term, and long-term agreements) needed to ensure reliable, cost-effective, and stable delivery of electricity to SJCE's customers.

1.3 Purchase and Sale Objectives

CED's objectives for the purchase and sale of power products are as follows:

a. Meet customer load requirements, including all necessary power products, with an optimized resource supply portfolio;
b. Provide stable rates for SJCE's customers;
c. Obtain cost effective power products while complying with regulatory requirements, this Policy, and other objectives established by the Council (e.g., equity, renewable energy and carbon reduction goals);
d. Act to limit exposure to market system fluctuations and manage risks;
e. Follow effective wholesale counterparty credit management procedures; and
f. Achieve and maintain an investment grade credit rating for SJCE.

1.4 Scope of Policy

This Policy addresses risks arising from CED's participation in the energy markets on behalf of SJCE and applies to all of City's agreements for the purchase and sale of power products to operate the program. This Policy does not address the following types of general property and casualty business risk: fire, accident, and casualty; health, safety, and workers' compensation; general liability; and other such typically insurable perils. The term "risk management," as used herein, is therefore understood to refer solely to risks related to participation in energy markets.

SJCE is exposed to three quantifiable risks: load and resource variability (volumetric), cost variability (price), and counterparty credit risk. From the perspective of risk mitigation, CED's primary objective is to cover SJCE's customer load and optimize the value of power supply resources. Taking risks to arbitrage market opportunities or risks unrelated to normal power supply business activities is not permitted.

SJCE is also exposed to regulatory and operational risks; however, these risks are difficult to quantify. As a result, these risk categories are enterprise risk exposures and are not directly governed by this Policy.

This Policy prescribes the management organization, authority, and processes to monitor, measure, and control the risks to which SJCE is exposed in the normal course of business in accordance with sound utility practices.

1.5 Applicability

This Policy applies to CED's power supply operations, purchase and sale of power products, credit risk management, and related activities.

1.6 Policy Review and Amendments

This Policy shall be reviewed annually. Amendments to the Policy may be required to address extraordinary market and industry risks between annual reviews. Amendments to this Policy must be approved by Resolution of the City Council.

2.0 RISK STRATEGY & PARAMETERS

An important aspect of implementing an overall energy risk management policy is the development of related strategies to mitigate related risks associated with the purchase and sale of power products. The key strategies of CED for the administration of SJCE are outlined below.

2.1 Counterparty Risk Management

Counterparty risk is defined as the exposure to economic loss resulting from default by a party to an agreement (i.e., a counterparty). Counterparty risk affects both agreements requiring physical settlement and those specifying monetary settlement. For all fixed price energy transactions, the counterparty must possess at least a BBB- (or equivalent investment grade rating) by a nationally recognized statistical rating organization (NRSRO). CED staff may consider counterparties with a rating below BBB- (or equivalent investment grade rating) or a

counterparty without a NRSRO rating on a case-by-case basis, with the approval of the City Manager or designee.

Effective wholesale counterparty management and credit analysis is essential to mitigate the counterparty risks associated with commodity transactions in the energy markets. The objective is to preserve SJCE's capital, liquidity, and supply reliability by limiting counterparty credit risk and supplier concentration to acceptable levels. Methodologies to achieve this objective are set forth in the ERMR.

Guaranty or security using instruments identified in the ERMR may be required to address counterparty risk. Requirements for guaranty or security are set forth in the ERMR.

2.2 Balanced Load

CED shall maintain an integrated and balanced portfolio of resources to cover SJCE's customer load with a risk framework that includes both volume and cost of the portfolio.

2.3 Minimum Coverage Requirements

CED shall establish minimum coverage requirements for energy as outlined in the ERMR, and shall comply with legal requirements and local directives for capacity, renewable energy credits and carbon-free attributes.

2.4 Diversification of Portfolio

CED shall strive to develop a resource portfolio for SJCE that includes diversification in the type of resources, agreement duration, geographic location, counterparty, pricing terms, cash reserves, and types of products.

2.5 Purchase to Cover Load Serving Obligations – Speculation Prohibited

As discussed in Section 1.3 of this Policy, CED's overall objective for the purchase and sale of power products for SJCE is to meet customers' load. In the course of performing these activities, CED shall not engage in activities that expose SJCE's customers to speculative buying and selling and shall only utilize approved transaction parameters as outlined in the ERMR.

2.6 Use of Derivatives

CED is ***not*** allowed to use derivatives in the administration of the SJCE program. These include transactions used to set price caps and floors. Examples include:

- Exchange-Traded or Over-the-Counter Puts and Calls;
- Electric Futures;
- Electric Options; and
- Weather Derivatives.

CED is permitted to use Congestion Revenue Rights (CRRs), and this activity is not considered a derivative. CRRs are financial instruments acquired primarily to offset transmission congestion costs and made available through the CAISO's CRR Allocations and Auctions.

3.0 RISK CONTROLS

3.1 Control Principles

CED will strive to conduct its energy risk management activities for SJCE in accordance with best practices of the energy industry; implementing such practices must be justified and balance risks, costs, and benefits. Processes and control systems must be in place that allow CED to identify, measure, monitor, control, and track risk exposures. These processes and control systems shall include the following risk management control principles:

- Use appropriate segregation of duties and internal controls;
- Adopt appropriate systems to ensure accurate and effective management reporting;
- Implement necessary resources to achieve management objectives;
- Attract and retain skilled and trained personnel;
- Provide cross-training and cross-coverage;
- Verify that employees conducting energy transactions are free of conflicts of interest;
- Ensure that procurement and contract authority and delegation of approvals is commensurate with accountability and capability;
- Incorporate risk and return metrics in performance measurement and reporting;
- Monitor the effectiveness of control strategies on an ongoing basis; and
- Preserve integrity in CED's procurement and contracting procedures.

3.2 Internal Controls

Internal controls shall be based on proven principles that meet the stringent requirements of generally accepted auditing standards (GAAS), financial institutions, and credit rating agencies. The required controls shall include all

customary and usual business practices designed to 1) prevent errors and improprieties, 2) ensure accurate and timely reporting of results of operations and other information pertinent to management, and 3) facilitate attainment of business objectives.

3.3 Segregation of Duties

Responsibilities related to power product purchase and sale agreements shall be segregated in a manner consistent with the control principles listed above by means of clearly defined roles and responsibilities for the Front Office, Middle Office, and Back Office operations. Such roles and responsibilities can also be provided by a qualified third-party services provider. Specific roles, responsibilities, and organizational structure of these functions are outlined in Section 4 of the Policy.

These controls shall be fully integrated into all business activities of CED related to SJCE, and CED senior management shall actively participate in risk management processes.

3.4 Conflicts of Interest

City employees in CED designated in the City Conflict of Interest Code, members of the Risk Oversight Committee, and certain consultants retained by CED are required to comply with state conflict of interest law under the California Political Reform Act. State law requires that each person complete annual conflict of interest filings (Form 700), and disclose reportable economic interests including investments as required by the Fair Political Practices Commission (FPPC) regulations.

In addition to state law, City employees in CED who are making or participating in the making of decisions relating to the purchase and sale of power products, counterparty credit evaluation and monitoring, or oversight of the foregoing, shall not have a financial interest in any company with whom the City has transacted in the last two years. Such City employees in CED are also prohibited from acquiring any financial interest in companies that respond to a procurement for the purchase and sale of power products and services. For example, any stock ownership would be a financial interest for the purposes of this paragraph even if it is not reportable under state law. Failure to comply with this requirement is a conflict of interest and requires the City employee in CED to recuse themselves from the transaction or task.

Once a year, CED supervising staff are responsible for reviewing the Form 700 of each such staff member for the purpose of identifying potential financial

conflicts of interest. CED may seek assistance from the City Attorney's Office regarding conflicts of interest requirements.

4.0 ROLES, RESPONSIBILITIES, & ORGANIZATION

This section of the Policy defines the overall roles and responsibilities of each organizational function for the implementation of this Policy. The coordinated efforts of personnel across several Departments are required to successfully implement CED's risk management program related to the administration of SJCE. The ERMR outlines specific details, roles, and responsibilities of the oversight and operational divisions within CED's energy risk management program structure. ROC advises the CED on the development of the ERMR and proposed amendments.

4.1 City Council

The City Council shall approve and establish organizational-wide framework and policies for risk management and delegate to the City Manager the responsibility for implementing the Policy.

The City Council shall approve long-term agreements for the purchase and sale of power products; use of standard master power purchase and sale agreements; and any other agreements not specifically delegated to the City Manager or the Director under Title 26 of the Municipal Code.

4.2 City Manager

Pursuant to Section 701 of the City Charter of the City of San José, the City Manager serves as the chief administrative officer of the City and is responsible for the administration of all departments, offices, and agencies of the City.

The City Manager or designee may also enter into and execute for and on behalf of the City, without the prior approval of the City Council, short-term and medium-term agreements to procure power products and master power purchase and sale agreements pursuant to Title 26 of the Municipal Code.

The City Manager or designee shall approve the ERMR and any amendments. The ERMR shall define in detail the internal controls, strategies, and processes for managing risks covered under the Policy.

4.3 Director of Community Energy

The Director of Community Energy has overall responsibility for implementing the Policy and for communicating risk management issues to the City Manager and

Council. The Director of Community Energy shall be responsible for delegating specific duties to carry out the Policy and ensuring compliance with the Policy by CED employees, service providers, and contractors.

The Director of Community Energy may also enter into and execute for and on behalf of the City, without the prior approval of the City Council, short-term agreements to procure power products pursuant to Title 26 of the Municipal Code. The Director may authorize a designee pursuant to an authorizing memorandum that may be updated from time to time.

4.4 Risk Oversight Committee

The ROC is responsible for advising the CED on compliance with risk management policies related to SJCE activities, advising on whether the ERMR is adequate to achieve the requirements of the Policy and advising on whether financial reserves are adequate to meet CED's operational and liquidity needs.

The ROC shall consist of seven voting members: the City Manager, the Director of Community Energy, the Director of Finance, the City's Risk Manager, the Budget Director, CED's Deputy Director of Power Resources, and CED's Division Manager of Risk Management and Contracts Administration. The ROC may request the City Attorney's assistance on legal matters. A quorum for the ROC to do business shall be no less than five ROC Committee members or their designees.

Each ROC member shall have one vote, and shall appoint a voting alternate. The ROC will meet at least quarterly, to act on the responsibilities mentioned above. Minutes to each meeting will be maintained per the City's record retention policy, and will include a summary of the material discussion on each action item.

CED is responsible for bringing SJCE program matters before the ROC so that the ROC can determine whether CED is administering the SJCE program in compliance with the Policy and make recommendations to support this outcome. CED shall bring any proposed changes to the ERMR for ROC consideration and recommendation prior to adoption of the changes.

4.5 Community Energy Department Staff

CED has integrated, but segregated, responsibilities to control risks by means of clearly defined roles and responsibilities for the Front Office, Middle Office, and Back Office. Oversight functions are performed at an operational level by these offices and managed at an executive level by the City Manager, Director of Community Energy, and the ROC.

From time to time, to address CED vacancies, staff reporting to 1) CED's Division Manager of Risk Management and Contracts Administration and 2) CED's Division Manager of Budget and Financial Planning may cover various tasks in the Middle and Back Offices, as needed, to support CED operations. Under no circumstance may these employees cover tasks in the Front Office, and staff reporting to CED's Deputy Director of Power Resources may not cover tasks in the Middle and Back Offices.

4.5.1 Front Office (Planning and Procurement)

CED's Deputy Director of Power Resources is responsible for managing the Front Office and can be supported by qualified third-party service providers. The Front Office is responsible for resource planning and the purchase and sale of power products to meet the physical, financial, regulatory, and contractual requirements applicable to SJCE. The function includes contract origination, managing the risk assumptions associated with the purchase and sale of power products, (e.g., physical and financial needs analyses), and coordinating load and energy delivery scheduling. The Front Office is responsible for ensuring that the applicable procedures and processes needed to transact business within the Policy are implemented and perform all duties related to the purchase and sale of power products. The Front Office is the primary interface with potential wholesale transacting counterparties. Front Office activities and detailed responsibilities are outlined in the ERMR.

4.5.2 Middle Office (Controls and Reporting)

CED's Division Manager of Risk Management and Contracts Administration is responsible for managing the Middle Office in collaboration with the City's Finance Department. CED's Risk Management and Contracts Administration Division will conduct the duties of the Middle Office and are supported by qualified third-party consultants and service providers. The primary purpose of the Middle Office is to manage risk oversight and controls. The Middle Office provides independent oversight of the risks assumed by the Front Office in the course of the purchase and sale of power products and related wholesale energy services. The Middle Office must be independent from the Front Office functions. The Middle Office is also responsible for contract administration, contract compliance, and invoice verification. Detailed responsibilities of the Middle Office are described in the ERMR.

4.5.3 Back Office (Settlements and Recording)

CED's Division Manager of Budget and Financial Planning is responsible for managing the Back Office in collaboration with the City's Finance Department and the Middle Office. The Back Office is primarily responsible for settlement of bills, recording transactions, bookkeeping, and accounting. The Back Office ensures accurate transaction records and settlements. Back Office functions are conducted by personnel in CED's Budget and Financial Planning Division and are supported by staff in the City's Finance Department, the Middle Office, and qualified third-party consultants and service providers. Detailed responsibilities of the Back Office are described in the ERMR.

4.6 Auxiliary Functions

Additional issues impacting the overall power supply and risk management program include establishment of financial reserve requirements, which are generated by auxiliary support functions in CED's Budget and Financial Planning Division, Account Management Group, and the City Manager's Budget Office.

CED's Budget and Financial Planning Division, Account Management Group, in collaboration with the City Manager's Budget Office, is responsible for preparation of the budget and the calculation of rates used to bill customers for their related power supply usage. These groups are also responsible for the establishment of reserves necessary to address credit risks related to counterparty credit, as laid out in the Policy and more clearly defined in the ERMR.

5.0 AUTHORITIES, LIMITS & PROCEDURES

All executed agreements shall conform to the policies set forth herein. Appropriate transacting authority limits for the various levels of personnel involved in the Front Office function shall be established in the ERMR. All staff with designated responsibility for Middle Office or Back Office functions are strictly prohibited from executing any agreements for the purchase or sale of power products. The Middle Office shall be responsible for informing counterparties of such approved authorizations, including contract authority and restrictions, along with product types and/or term and dollar limits.

5.1 Procurement and Contract Authority for Purchase and Sale of Power Products

Pursuant to Chapter 26.40 of Title 26 of the Municipal Code and the requirements of this Policy, the City Manager and the Director of Community

Energy, or their respective designees, may enter into and execute for and on behalf of the City and without the prior approval of the Council, the following agreements:

- **City Manager or designee:** short-term and medium-term agreements for the purchase and sale of power products, and master power purchase and sale agreements of any duration, on a form previously approved for use by the City Council.
- **Director of Community Energy or designee:** short-term agreements for the purchase or sale of power products, including associated CAISO administrative fees. CAISO administrative fees result daily from the scheduling of load and resources with the CAISO.

In addition, the period between the initial delivery date and the agreement execution date shall be no later than the times specified in the chart below:

Contract Authority	Agreement Type by Term	Term/ Duration of the Agreement	Initial Delivery Date from the Agreement Execution Date (no later than)
Council	Long-term	10 years or more	As approved by Council
City Manager or Designee	Medium-term	More than 3 years and less than 10 years	5 years
City Manager, Director of Community Energy, or Designee	Short-term	3 years or less	3 years

5.1.1. Purchase and Sale Agreements

All agreements for the purchase or sale of power products shall be in writing and approved as to form by the City Attorney prior to execution.

Any master power purchase and sale agreement shall use the standard Edison Electric Institute (“EEI”) Agreement, the Western Systems Power Pool (“WSPP”) Agreement form approved for use by the City Council, with modifications as appropriate and developed in consultation with the City Attorney. The Council may also authorize the use of other standard agreement forms by Resolution.

Upon execution of any such agreement, CED shall file with the City Clerk's Office a redacted copy of the executed agreement, in accordance with applicable exemptions under the Public Records Act and the original unredacted agreement will be retained by CED consistent with the records retention policies.

5.2 Procurement Procedures

This Section specifies the procurement procedures applicable to CED's purchase and sale of power products for SJCE's operations consistent with Chapter 26.40.

In addition to the procedures laid out below, CED shall also comply with the City's Procurement and Contract Process Integrity and Conflict of Interest Policy to the maximum extent possible if not in direct conflict with this Policy.

5.2.1 Competitive Bidding

CED shall competitively purchase or sell power products. CED must post all solicitations in the appropriate section of the SJCE website and notify known suppliers, as well as suppliers who have asked to be notified. CED shall select the most advantageous bid. Bids are to be evaluated on an equivalent basis (similar quality, volume, duration, and options), adjusted for such factors as transmission, losses, etc. The most advantageous bid shall be determined based on the best value to CED. Relevant factors to evaluate value include but may not be limited to: life cycle costs; cash-flow considerations; concentration risk; maintenance costs; operating efficiency; quality; financial strength, capabilities and/or expertise of the bidder; agreement terms including collateral terms; and adherence to applicable Council policies.

CED may also enter into agreements to purchase and sell power products by participating in competitive solicitations of other load serving entities and public agencies. CED shall submit bids to others that are in line with market prices for power products, as shown by bids received by CED in its competitive solicitations, broker quotes, and/or reputable industry indexes and reports.

5.2.2 Procurement Where Competitive Bidding is Not Practicable

5.2.2.1 Procurement With Deliveries Within One Week or Less and Balance-of-Month

CED may negotiate and execute agreements to purchase or sell power products without a competitive solicitation where delivery of the power product commences within one week or less, or exchange traded (e.g. NYMEX, ISO, ICE, etc.), or Balance-of-Month. Such agreements are time-sensitive. However, even in the case of such agreements, CED shall seek to obtain bids as competitively as possible from potential counterparties, consistent with the size and type of agreements and counterparty. CED shall seek to obtain quotes from at least three qualified suppliers, if three qualified suppliers are available. CED shall report to the ROC all purchases and sales entered into pursuant to this Section.

5.2.2.2 Unique Service

CED must procure some types of power products for SJCE such as capacity and RECs, among others, to comply with statutory or regulatory or local requirements. From time to time, the market for these power products may experience limited supply or other disruptions that make the application of the requirements for a competitive solicitation contrary to the public interest.

The Director of Community Energy may seek an exemption from the City Manager or designee for a limited period of time from the requirement to procure power products using a competitive solicitation if such exemption would be necessary for the above stated reasons. Any such request must be in writing and provide information to support the duration of the exemption such as the results of any competitive solicitations undertaken by CED or other reputable market data. The City Manager or designee may approve the Director of Community Energy's request, with any appropriate modifications, if the City Manager or designee agrees that the exemption would be necessary for the above stated reasons.

CED may buy or sell power products without a competitive solicitation during the time period approved by the City Manager or designee, provided that such agreements shall be 1) for power products required to meet compliance requirements; and 2) in line with market prices, as shown by bids received by CED in its competitive solicitations, broker quotes and/or reputable industry

indexes and reports. If adverse conditions persist, the City Manager or designee may approve extending the duration for an exemption from the requirement to use a competitive solicitation, upon written request by the Director of Community Energy.

Any agreements entered into under this Section shall be made with such competition as is practicable under the circumstance. CED shall seek to obtain bids as competitively as possible from potential counterparties, consistent with the size and type of the agreement and counterparty. CED shall seek to obtain quotes from at least three qualified suppliers, if three qualified suppliers are available. CED shall report to the ROC all purchases and sales entered into without a competitive solicitation.

5.2.2.3 Joint Solicitations and Public Agency Procurement

CED may, without observing the competitive solicitation requirements prescribed by Section 5.2.1 of this Policy:

a. Purchase or acquire power products from another governmental body or agency, or
b. Contract with any public agency for the purchase or sale of any power products by such public agency for or on behalf of CED under the following circumstances:
    i. Purchase or sale of power products directly from or to another public agency; or
    ii. Joint purchasing or sales of power products by two or more public agencies wherein CED is included as a purchaser and the public agency used a competitive procurement process, either directly or through a consultant; or
    iii. Direct purchases from vendors on terms obtained pursuant to competitive procurement processes undertaken by another public agency which substantially comply with the competitive bidding procedures described in this Section and the executed contract resulting from the procurement includes language allowing other entities to use said contract.

CED may join one or more public agencies operating a CCA to purchase or sell power products in a coordinated manner. Under direction of CED and subject to the required approvals, the consultant may provisionally accept offers for power products on

behalf of CED through competitive solicitations or a procurement process. All purchases and sales of power products is subject to City Attorney approval as to form and execution of a written agreement.

5.2.3 Emergency purchases

CED may undertake emergency purchases, provided that it complies with the requirements of Chapter 4.12.220 for emergency purchases.

5.3 Protest

Any interested party may protest a procurement decision issued in connection with a competitive bidding process for the purchase of power products under a long-term agreement. Competitive solicitations for the purchase or sale of power products for short term and middle term agreements are not subject to protest.

The unsuccessful proposer must submit a protest in accordance with the instructions contained in the solicitation that is the subject of the protest no later than 10 calendar days after notice of award is issued. The protest must detail the grounds and factual basis and must include all supporting information. Failure to submit a timely written protest to the agreement will bar consideration of the protest.

The City Manager shall issue a written decision on the protest. The City Manager may base the decision on the written protest alone, documents from the solicitations, or may informally gather evidence from the person filing the protest or any other person having relevant information. The City Manager may delegate review of a protest to a designee provided the designee was not involved with the procurement that is the subject of the protest.

An appeal of the City Manager's decision may be filed with the Council. All such appeals must be in writing, and shall be filed with the City Clerk within 10 calendar days from the date of the City Manager's decision.

6.0 Reserves

CED will comply with SJCE's Financial Reserves Policy. The ROC is responsible for advising on the level of adequate reserves for energy price exposure and credit losses.

7.0 POLICY COMPLIANCE

7.1 Compliance Exceptions

Compliance exceptions are actions which violate the authority limits or directives set forth herein or in the ERMR.

7.2 Reporting of Exceptions

The Director of Community Energy shall notify the ROC of exceptions to mandated policies, procedures, and regulations within 48 hours after they are identified, and ensure the Front Office prepares a full report for review and discussion at the next ROC regular meeting or at a special meeting if the regular meeting is not scheduled within 30 days of the Director's notification of the exception.

7.3 Audit

Compliance with this Policy and with the specific ERMR requirements instituted pursuant to this Policy, shall be subject to examination by the City Auditor and the City's independent auditors or by such other reviewers that the City Manager may appoint to evaluate the effectiveness of mandated controls.

7.4 Systems, Tools, and Training

CED employees and City staff providing support to the SJCE program who are authorized to perform energy risk management functions on behalf of CED for the administration of SJCE shall be provided with the necessary systems and tools to support all risk management processes.

Provision shall be made in the budgets submitted for each group which performs market risk management functions on behalf of CED for the acquisition and maintenance of computer systems; software; communications equipment; data services; and other analytical, measurement, and reporting tools.

Provision shall also be made in the budgets submitted for each group that performs market risk management functions on behalf of CED for managers and staff to attend seminars and courses in risk management on a regular basis.

EXHIBIT A

GLOSSARY

Balance-of-month
"Balance-of-month" means the purchase or sale of power products for a term not greater than one month to be performed or delivered within the current or next succeeding calendar month.

CAISO
"CAISO" has the meaning set forth in Chapter 26.10 of the Municipal Code.

Capacity
"Capacity" means the qualifying megawatt amount from a project under the CAISO and the CPUC rules that establish Resource Adequacy Requirements applicable to San José Clean Energy.

Community Choice Aggregation or CCA
"Community Choice Aggregation" or "CCA" means the program established under Public Utilities Code Sections 331.1, 366.2, and 381.1, which authorizes cities, counties, and other qualifying governmental entities within the service areas of investor-owned utilities (IOUs) to combine, upon approval of its governing board, the electricity loads of residents, businesses, and municipal facilities in a community-wide electricity buyers' program. The IOU continues to deliver the electricity through its transmission and distribution system and provide meter reading, billing, and maintenance services for CCA customers.

Clean Energy
"Clean Energy" means energy that is generated with little to no greenhouse gas emissions, including, but not limited to, renewable and carbon-free sources. This is in contrast to energy generated by fossil fuels, which emit a significant amount of greenhouse gases, such as carbon dioxide and methane, among many others.

Community Energy Department or CED
The "Community Energy Department" or "CED" has the meaning set forth in set forth in Chapter 26.10 of the Municipal Code.

Counterparty
"Counterparty" has the meaning set forth in Chapter 26.10 of the Municipal Code.

CPUC
"CPUC" has the meaning set forth in Chapter 26.10 of the Municipal Code.

Director of Community Energy
"Director of Community Energy" has the meaning set forth in Section 2.04.4610 of the Municipal Code.

Energy
"Energy" means electrical energy measured in megawatt hours.

Long-Term Agreement
"Long-Term Agreement" has the meaning set forth in Chapter 26.10 of the Municipal Code.

Master Power Purchase and Sale Agreement
"Master Power Purchase and Sale Agreement" has the meaning set forth in Chapter 26.10 of the Municipal Code.

Medium-Term Agreement
"Medium-Term Agreement" has the meaning set forth in Chapter 26.10 of the Municipal Code.

Municipal Code
"Municipal Code" means the San José Municipal Code.

Power Products
"Power Products" has the meaning set forth in Chapter 26.10 of the Municipal Code.

Procurement Authority
"Procurement Authority," as used in this Policy, means the City Manager, Director or designee authorized to procure Power Products.

Renewable Energy Credit or REC
"Renewable Energy Credit" or "REC" has the meaning set forth in California Public Utilities Code Section 399.12(h) and CPUC Decision 08-08-028, as may be amended from time to time or as further defined or supplemented by law.

San José Clean Energy or SJCE
"San José Clean Energy" or "SJCE" has the meaning set forth in Chapter 26.10 of the Municipal Code.

Short-Term Agreement
"Short-Term Agreement" has the meaning set forth in Chapter 26.10 of the Municipal Code.